

Consequently, when a defendant appears and indicates a desire to contest an action, a court may refuse to grant a default judgment, in accordance with the policy of allowing cases to be tried on the merits. 10 Wright, Miller & Kane, Federal Practice and Procedure: Civil 2d,

supra. Default judgments are not favored and are appropriate only when there has been a “clear record of delay or contumacious conduct.” Id. (citing United States on Behalf of and for the Use of Time Equipment Rental & Sales, Inc. v. Harre, 983 F.2d 128 (8th Cir.1993)).

In the present case, Counsel for Defendant Kenneth Thompson has filed a notice of appearance [D.E. 20]. Additionally, the Court granted the motion of the defendant for a thirty day extension of time in which to file an answer or otherwise plead on November 29, 2013. Clearly, Defendant have shown a desire to contest the action. Consequently, it is the recommendation of the Magistrate Judge that Plaintiff’s motion be denied.

Respectfully Submitted,

**s/Edward G. Bryant**

EDWARD G. BRYANT

UNITED STATES MAGISTRATE JUDGE

Date: **October 30, 2013**

**ANY OBJECTIONS OR EXCEPTIONS TO THIS REPORT AND RECOMMENDATIONS MUST BE FILED WITHIN FOURTEEN (14) DAYS AFTER BEING SERVED WITH A COPY OF THE REPORT AND RECOMMENDATIONS. 28 U.S.C. § 636(b)(1). FAILURE TO FILE THEM WITHIN FOURTEEN (14) DAYS MAY CONSTITUTE A WAIVER OF OBJECTIONS, EXCEPTIONS, AND ANY FURTHER APPEAL.**